

MICHIGAN ELECTION LAW (EXCERPT)
Act 116 of 1954

168.792a Absent voter counting boards.

Sec. 792a. (1) For elections conducted before July 1, 2014, if a city, township, or village decides to use absent voter counting boards, the board of election commissioners of that city, township, or village may establish an absent voter counting board for each election day precinct in that city, township, or village. For elections conducted on or after July 1, 2014, if a city, township, or village decides to use absent voter counting boards, the board of election commissioners of that city, township, or village shall establish an absent voter counting board for each election day precinct in that city, township, or village. The ballot form of an absent voter counting board shall correspond to the ballot form of the election day precinct for which it is established. After the polls close on election day, the county, city, township, or village clerk responsible for producing the accumulation report of the election results submitted by the boards of precinct election inspectors shall format the accumulation report to clearly indicate all of the following:

- (a) The election day precinct returns.
- (b) The corresponding absent voter counting board returns.
- (c) A total of each election day precinct return and each corresponding absent voter counting board return.

(2) The board of election commissioners shall establish the absent voter counting boards. The board of election commissioners shall determine the number of absent voter counting boards to be established and shall appoint the election inspectors to those absent voter counting boards 10 days or more before the election at which they are to be used. Sections 673a and 674 apply to the appointment of election inspectors to absent voter counting boards under this section. The board of election commissioners shall determine the number of ballots that may be expeditiously counted by an absent voter counting board in a reasonable period of time, taking into consideration the size and complexity of the ballot to be counted pursuant to the guidelines of the secretary of state. Combined ballots shall be regarded as the number of ballots as there are sections to the ballot.

(3) If more than 1 absent voter counting board is to be used, the city, township, or village clerk shall determine the number of voting machines or the number of ballot boxes and the number of election inspectors to be used in each of the absent voter counting boards and to which absent voter counting board the absent voter ballots for each precinct shall be assigned for counting. The clerk shall make the determination under this subsection 2 days or more before the election and shall not assign an absent voter counting board more ballots than the maximum number authorized by the board of election commissioners under subsection (2). The clerk is not required to use all of the absent voter counting boards authorized by the board of election commissioners under subsection (2).

(4) In a city, township, or village that uses absent voter counting boards under this section, absent voter ballots shall be counted in the manner provided in this section and absent voter ballots shall not be delivered to the polling places. The board of election commissioners shall provide a place for each absent voter counting board to count the absent voter ballots. Section 662 applies to the designation and prescribing of the absent voter counting place or places in which the absent voter counting board performs its duties under this section. The places shall be designated as absent voter counting places. Except as otherwise provided in this section, laws relating to paper ballot precincts, including laws relating to the appointment of election inspectors, apply to absent voter counting places. If a counting place uses voting machines, the provisions of this section relating to placing of absent voter ballots on voting machines apply. More than 1 absent voter counting board may be located in 1 building.

(5) The clerk of a city, township, or village that uses absent voter counting boards shall supply each absent voter counting board with supplies necessary to carry out their duties under this act. The supplies shall be furnished to the city, township, or village clerk in the same manner and by the same persons or agencies as for other precincts.

(6) Absent voter ballots received by the clerk before election day shall be delivered to the absent voter counting board by the clerk at the time the election inspectors of the absent voter counting boards report for duty, which time shall be established by the board of election commissioners. Absent voter ballots received by the clerk on election day shall be delivered to the absent voter counting boards before the time set for the closing of the polls. Absent voter ballots shall be delivered to the absent voter counting boards in the sealed absent voter ballot return envelopes in which they were returned to the clerk. Written or stamped on each of the return envelopes shall be the time and the date that the envelope was received by the clerk and a statement by the clerk that the signatures of the absent voters on the envelopes have been checked and found to agree with the signatures of the voters on the registration cards or the digitized signatures of voters contained in the qualified voter file as provided under section 766. If a signature on the registration card or a digitized

signature contained in the qualified voter file and on the absent voter ballot return envelope does not agree as provided under section 766, if the absent voter failed to sign the envelope, or if the statement of the absent voter is not properly executed, the clerk shall mark the envelope "rejected" and the reason for the rejection and shall place his or her name under the notation. An envelope marked "rejected" shall not be delivered to the absent voter counting board but shall be preserved by the clerk until other ballots are destroyed in the manner provided in this act. The clerk shall also comply with section 765(5).

(7) At the time of issuing or mailing absent voter ballots to qualified applicants, the clerk of a city, township, or village that uses absent voter counting boards shall mark the letters "A.V." and the date of election on the registration card of the applicant in the precinct registration file.

(8) This chapter does not prohibit an absent voter from voting in person within the voter's precinct at an election, notwithstanding that the voter may have applied for an absent voter ballot and the ballot may have been mailed or otherwise delivered to the voter. The voter, the election inspectors, and other election officials shall proceed in the manner prescribed in section 769. The clerk shall preserve the canceled ballots for 2 years.

(9) The absent voter counting boards shall process the ballots and returns in as nearly as possible the same manner as ballots are processed in paper ballot precincts. The poll book may be combined with the absent voter list or record required by section 760, and the applications for absent voter ballots may be used as the poll list. The processing and tallying of absent voter ballots may commence at 7 a.m. on the day of the election.

(10) An election inspector, challenger, or any other person in attendance at an absent voter counting place at any time after the processing of ballots has begun shall take and sign the following oath that may be administered by the chairperson or a member of the absent voter counting board:

"I (name of person taking oath) do solemnly swear (or affirm) that I shall not communicate in any way any information relative to the processing or tallying of votes that may come to me while in this counting place until after the polls are closed."

(11) The oaths administered under subsection (10) shall be placed in an envelope provided for the purpose and sealed with the red state seal. Following the election the oaths shall be delivered to the city, township, or village clerk. Except as otherwise provided in subsection (16), a person in attendance at the absent voter counting place shall not leave the counting place after the tallying has begun until the polls close. A person who causes the polls to be closed or who discloses an election result or in any manner characterizes how any ballot being counted has been voted in a voting precinct before the time the polls can be legally closed on election day is guilty of a felony.

(12) At the time the board of election commissioners provide for the use of absent voter counting boards, the board of election commissioners may provide that the absent voter counting boards shall record the votes contained on absent voter ballots on voting machines. In that case, the recording of ballots shall be done by the chairperson of the absent voter counting board or another member designated by the chairperson. The act of casting the votes shall be performed in the presence of and under the careful observation and full view of all members of the absent voter counting board, party challengers, and any other persons lawfully present at the absent voter counting place. The vote as indicated by the voting pointers shall not be recorded until each member of the absent voter counting board is satisfied that the arrangement of the voting pointers fully carries out the intent of the absent voter as shown by the cross marks or check marks on the absent voter ballot. A certificate that the requirements of this subsection were met shall be made on the election inspectors' statement of returns.

(13) As soon as absent voter ballots have been cast on a voting machine pursuant to subsection (12), but not before 8 p.m., the election inspectors shall seal the operating lever of the machine against voting and shall then proceed to determine and record the votes cast in the manner provided in this act.

(14) Voted absent voter ballots shall be placed in a ballot box and the ballot bag and ballot box shall be sealed in the manner provided by this act for paper ballot precincts. The seal numbers shall be recorded on the statement sheet and in the poll book.

(15) In a city, township, or village where challenged voters are required to vote on absent voter ballots, each challenged voter ballot and application for ballot, after having been voted and properly identified, shall be placed by the voter in an absent voter ballot return envelope. The applicable information required on the back of the envelope shall be completed by the board of election inspectors. The envelope shall be signed by the challenged voter and by the chairperson of the precinct board of election inspectors. The word "challenged" shall be written across the front of the envelope. The envelope and application for ballot shall be sealed and delivered to the absent voter counting place by the clerk of the city, township, or village. Immediately after the closing of the polls, the chairperson of the precinct board of election inspectors shall notify the clerk of the city, township, or village of remaining challenged voter ballots to be delivered to the

absent voter counting place. In a city, township, or village that uses voting machines where absent voter counting boards are not used, challenged ballots shall be counted and tallied in the precincts, in the same manner that absent voter ballots are tallied and counted as provided in section 791.

(16) Subject to this subsection, a local election official who has established an absent voter counting board, the deputy or employee of that local election official, or an employee of the state bureau of elections may enter and leave an absent voter counting board after the tally has begun but before the polls close. A person described in this subsection may enter an absent voter counting board only for the purpose of responding to an inquiry from an election inspector or a challenger or to provide instructions on the operation of the counting board. Before entering an absent voter counting board, a person described in this subsection shall take and sign the oath prescribed in subsection (10). The chairperson of the absent voter counting board shall record in the poll book the name of a person described in this subsection who enters the absent voter counting board. A person described in this subsection who enters an absent voter counting board and who discloses an election result or in any manner characterizes how any ballot being counted has been voted in a precinct before the time the polls can be legally closed on election day is guilty of a felony. As used in this subsection, "local election official" means a county, city, township, or village clerk.

(17) The secretary of state shall develop instructions consistent with this act for the conduct of absent voter counting boards. The secretary of state shall distribute the instructions developed under this subsection to city and township clerks 40 days or more before a general election in which absent voter counting boards will be used. A city or township clerk shall make the instructions developed under this subsection available to the public and shall distribute the instructions to each challenger in attendance at an absent voter counting board. The instructions developed under this subsection are binding upon the operation of an absent voter counting board used in an election conducted by a county, city, township, or village.

History: Add. 1961, Act 230, Eff. Sept. 8, 1961;—Am. 1965, Act 331, Imd. Eff. July 23, 1965;—Am. 1970, Act 2, Imd. Eff. Feb. 10, 1970;—Am. 1971, Act 15, Eff. Mar. 30, 1972;—Am. 1973, Act 15, Imd. Eff. Apr. 30, 1973;—Am. 1980, Act 140, Imd. Eff. May 29, 1980;—Am. 1985, Act 160, Imd. Eff. Nov. 20, 1985;—Am. 1990, Act 95, Imd. Eff. June 6, 1990;—Am. 1995, Act 261, Eff. Mar. 28, 1996;—Am. 1996, Act 583, Eff. Mar. 31, 1997;—Am. 2005, Act 71, Imd. Eff. July 14, 2005;—Am. 2012, Act 272, Imd. Eff. July 3, 2012.

Compiler's note: Enacting section 4 of Act 71 of 2005 provides:

"Enacting section 4. If any portion of this amendatory act or the application of this amendatory act to any person or circumstances is found invalid by a court, the invalidity shall not affect the remaining portions or applications of this amendatory act that can be given effect without the invalid portion or application, if the remaining portions are not determined by the court to be inoperable, and to this end this amendatory act is declared to be severable."

Popular name: Election Code